

REMARKS

Claims 1 - 34 remain in the present application. Applicants respectfully request examination and reconsideration of Claims 1 - 34 in light of the remarks set forth below.

35 USC 112 Rejections

The present Office Action indicates that Claims 10 and 17 are rejected under 35 U.S.C. 112 first paragraph, as failing to comply with the enablement requirement. The Office Action indicates the Examiner believes that Claims 10 and 17 are Markush-type claims drawn to a group consisting of a plurality of alternative elements and a provisional election is required. Without conceding that Claims 10 and 17 are Markush-type claims drawn to a group consisting of a plurality of alternative elements, Applicants have amended Claims 10 and 17 to read in the alternative "or".

35 USC 102(e) Rejections

Claims 1 - 8, 11 - 15, 18, 19 and 23 - 34 are rejected under 35 U.S.C. 102(e) for the reasons set forth on pages 3 and 4 of the present Office Action. Specifically, claims 1 - 8, 11 - 15, 18, 19 and 23 - 34 are rejected under 35 USC 102(e) as being anticipated by the Perkins (6,496,477) reference, which is hereinafter referred to as "Perkins" or the "Perkins reference".

Applicants respectfully submit that the present invention as claimed in Claims 1 - 34 is neither shown nor suggested by the Perkins reference. The present

Serial No: 09/784,226

Examiner: Qureshi, Afsar M.

- 11 -

Art Unit: 2667

invention as set forth in the amended independent claims indicate path diversity is dynamically changed during transmission based on the communication conditions during a connection between the sender and a receiver. More specifically, Applicants respectfully assert the Perkins reference fails to teach or suggest dynamically changing the path diversity during transmission based on the communication conditions during a connection between a sender and a receiver, as recited in independent Claim 1.

Applicants also respectfully assert the Perkins reference fails to teach or suggest a path diversity unit dynamically changes the path diversity during transmission based on the communication conditions during a connection between the sender and a receiver, as recited in independent Claim 12.

The present Office Action indicates the Perkins discloses an adaptive software module that dynamically picks paths based on QoS (Col. 8 lines 45-49 and Col. 19, lines 4-12). Applicants respectfully assert that to the extent the Perkins invention may mention an adaptive software module to pick paths, it is directed towards run time of the software program rather than during transmission. Applicants also respectfully assert that basing the dynamic changes on communication conditions between the sender and a receiver during transmission is not the same as a predetermined QoS parameter. Applicants respectfully assert that changing the path diversity based upon actual communication conditions during transmission is not taught by a predetermined QoS parameter or requirement.

Applicants respectfully assert that dependent Claims 2 through 11 are allowable as depending from allowable independent Claim 1. Applicants also

Serial No: 09/704,226
Examiner: Qureshi, Afsar M.

- 12 -

Art Unit: 2667

respectfully assert that dependent Claims 13 through 34 are allowable as depending from allowable independent Claim 12.

35 USC 103(a) Rejections

Claims 10 and 17 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Perkins et al. (US Patent No. 6, 496,770) in view of Narayanaswami et al. (US Patent No. 6,477,117). Applicants have reviewed the Akashi reference and, for the following rationale, Applicants respectfully assert that the present invention is neither anticipated nor rendered obvious by the Perkins et al. reference and/or the Narayanaswami et al. reference, alone or together in combination.

The present Office Action acknowledges the Perkins et al. reference fails to teach compatibility for wireless LAN, and more specifically the wireless protocols to include Bluetooth and 802.11. To the extent the Narayanaswami et al. reference may mention Blue Tooth and IEEE 802.11 protocols [Col. 4 line 65 to Col. 5 line 1], Applicants respectfully assert the Narayanaswami et al. reference does not teach a wireless local area conforming to IEEE 802.11 specifications as claimed in Claims 10 and 17. Applicants respectfully assert that the wearable mobile wrist watch capable of wirelessly accessing information mentioned in the Narayanaswami et al. reference [Col. 2 lines 10-- 15] does not teach dynamically changing the path diversity during transmission based on the communication conditions during a connection between a sender and a receiver.

Claim 34 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Perkins et al. (US Patent No. 6,496,770) in view of Gilhousen et al. (US Patent No. 5,109,390). Applicants have reviewed the Akashi reference and, for the following

Serial No: 09/784,226
Examiner: Qurashi, Afsar M.

- 13 -

Art Unit: 2667

rationale, Applicants respectfully assert that the present invention is neither anticipated nor rendered obvious by the Perkins et al. reference and/or the Gilhousen et al. reference, alone or together in combination.

The present Office Action acknowledges the Perkins reference does not disclose a receiver tracking the communication quality of each path and communicates it to the sender for use in optimizing the transmission. The present Office Action alleges the Gilhousen et al. reference discloses a diversity receiver that tracks the above information and provides it to a diversity combiner. To the extent the Gilhousen reference may mention a diversity combiner, Applicants respectfully assert the Gilhousen et al. reference does not teach a receiver that includes a mechanism for tracking the communication quality of each path and communicating the communication quality of each path to the sender for use in optimizing the transmission. Applicants respectfully assert that to the extent the Gilhousen reference teaches of combining ratios of two signals [Col. 8 lines 21 - 30], the Gilhousen reference does not teach tracking the communicating the communication quality of each path to the sender for use in optimizing the transmission.

Allowable Subject Matter

The present Office Action indicates Claims 9, 16, and 20 - 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Applicants thank the examiner for indicting allowable subject matter.

Applicants have added new independent Claim 35 which includes the limitations of Claim 20 in independent form.

Serial No: 09/784,226
Examiner: Qureshi, Afsar M.

- 14 -

Art Unit: 2667

Applicants have added new independent Claim 37 which includes the limitations of Claim 9 in independent form.

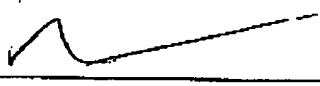
Conclusion

In light of the above listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims. The examiner is urged to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO

Date: 6/4/04, 2004



John P. Wagner, Jr.
Reg. No. 35,398
Two North Market Street
Third Floor
San Jose, CA 95113
(408) 938-9060

Serial No: 09/734,226
Examiner: Qureshi, Afsar M.

- 15 -

Art Unit: 2607